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 Merck Sharp & Dohme Corp.,
 Cubist Pharmaceuticals LLC,
 Optimer Pharmaceuticals LLC,
 MSD Investment Holdings (Ireland),
 and MSD International GmbH*

**UNITED STATES DISTRICT COURT
 DISTRICT OF NEW JERSEY**

MERCK SHARP & DOHME CORP.,
 CUBIST PHARMACEUTICALS LLC,
 OPTIMER PHARMACEUTICALS LLC,
 MSD INVESTMENT HOLDINGS
 (IRELAND), AND MSD INTERNATIONAL
 GMBH,

Plaintiffs,

v.

ACTAVIS LABORATORIES FL, INC.,
 ACTAVIS PHARMA, INC., and TEVA
 PHARMACEUTICALS USA, INC.,

Defendants.

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Civil Action No. 20-534 (CCC)(MF)

**STIPULATION AND ORDER
 DISMISSING DEFENDANTS
 ACTAVIS PHARMA, INC., AND TEVA
 PHARMACEUTICALS USA, INC.
 WITHOUT PREJUDICE**

(Filed Electronically)

This stipulation is made by and between Plaintiffs Merck Sharp & Dohme Corp.

("Merck"), Cubist Pharmaceuticals LLC ("Cubist"), Optimer Pharmaceuticals LLC ("Optimer"),
 MSD Investment Holdings (Ireland) ("MSD Investment Ireland"), and MSD International GmbH
 ("MSD International") (collectively, "Plaintiffs") and Defendants Actavis Laboratories FL, Inc.,
 Actavis Pharma, Inc., and Teva Pharmaceuticals USA, Inc. (collectively, "Defendants").

WHEREAS, Plaintiffs filed suit against Defendants in the above-captioned case alleging patent infringement (the “Action”);

WHEREAS, Plaintiffs also filed suit against Defendants making the same patent infringement allegations in the United States District Court for the Southern District of Florida in case number 1:20-cv-20217-UU (the “Florida Suit”);

WHEREAS, Actavis Pharma, Inc. and Teva Pharmaceuticals USA, Inc. maintain that they are not proper defendants in this Action;

WHEREAS, Plaintiffs disagree with the positions of Defendants stated above;
WHEREAS, resolution of such disagreement by motion practice will consume time and expense that Plaintiffs and Defendants wish to avoid by entering into this stipulation;

NOW THEREFORE, Plaintiffs and Defendants, by and through their respective undersigned counsel in the Action, and subject to the approval of the Court, stipulate and agree as follows:

1. Actavis Pharma, Inc. and Teva Pharmaceuticals USA, Inc., including all affiliates or subsidiaries thereof (collectively “the CERTAIN DEFENDANTS”), agree to be bound by any judgment, order, or decision including any injunction, rendered as to Actavis Laboratories FL, Inc. in the Action (including appeals) as if they were named defendants.

2. The CERTAIN DEFENDANTS agree that, to the extent they have in their possession, custody, or control information or materials that would be discoverable in the Action were they to remain as parties to the Action (“discovery”), they will search for and provide such discovery to Actavis Laboratories FL, Inc., and Actavis Laboratories FL, Inc. will produce such discovery in response to discovery requests served on Actavis Laboratories FL, Inc. in the Action as if it was its own. Plaintiffs may seek to depose employees of the CERTAIN DEFENDANTS

by serving deposition notices on Actavis Laboratories FL, Inc., without the need for service of subpoenas, and Actavis Laboratories FL, Inc. agrees to accept service of such deposition notices. Any such noticed employees of the CERTAIN DEFENDANTS will appear for deposition and will testify and submit to the jurisdiction of this Court to resolve any discovery disputes associated with any such deposition without the need for (a) service of subpoenas or (b) adherence to the procedures of the Hague Convention or other methods of foreign service if located outside the United States. Actavis Laboratories FL, Inc. will also accept deposition notices pursuant to Fed. R. Civ. P. 30(b)(6) containing topics directed to information that may be held by the CERTAIN DEFENDANTS and any witness presented in response thereto shall investigate information in the possession, custody, or control of the CERTAIN DEFENDANTS if required. Actavis Laboratories FL, Inc. will, if requested, certify interrogatory responses containing information of Actavis Laboratories FL, Inc. or the CERTAIN DEFENDANTS. The CERTAIN DEFENDANTS further agree to be bound by resolution of discovery matters in the Action. For clarity, this paragraph does not constitute a waiver of any objections or defenses to, or any privilege or immunity from, the provision of discovery otherwise available to parties to an action under the Federal Rules of Civil Procedure, the Federal Rules of Evidence, or any other applicable authority. Moreover, none of the foregoing shall be interpreted to limit Plaintiffs' rights to discovery against Actavis Laboratories FL, Inc.

3. Actavis Laboratories FL, Inc. submits and consents to personal jurisdiction for purposes of the Action only and, as such, will not move to dismiss the Action on grounds that the District Court for the District of New Jersey lacks jurisdiction over Actavis Laboratories FL, Inc. for purposes of the Action. Actavis Laboratories FL, Inc. also consents to proper venue in the District of New Jersey in the Action and, as such, will not move to change the venue of the

Action. The CERTAIN DEFENDANTS submit and consent to the jurisdiction of this Court solely for purposes of enforcing this Stipulation, and to adjudicate or resolve any disputes whatsoever that may arise regarding its terms, interpretation, application, or requirements.

4. Plaintiffs hereby voluntarily dismiss without prejudice Actavis Pharma, Inc. and Teva Pharmaceuticals USA, Inc. pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii).

5. Plaintiffs agree to voluntarily dismiss the Florida Suit pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) prior to the earliest date on which any of the Defendants must answer that complaint, subject to any extensions.

6. The terms of this stipulation are made without prejudice to the respective positions of Plaintiffs and Defendants as to whether Actavis Pharma, Inc. and Teva Pharmaceuticals USA, Inc. are proper defendants in the Action, and whether Actavis Laboratories FL, Inc. is subject to personal jurisdiction in this Court. The terms of this stipulation also cannot be used by Plaintiffs or Defendants to argue for or against jurisdiction in the future.

7. The case caption for the Action should be amended to remove Actavis Pharma, Inc. and Teva Pharmaceuticals USA, Inc. as follows:

MERCK SHARP & DOHME CORP.,
CUBIST PHARMACEUTICALS LLC,
OPTIMER PHARMACEUTICALS LLC,
MSD INVESTMENT HOLDINGS
(IRELAND), AND MSD INTERNATIONAL
GMBH,

Plaintiffs,

v.

ACTAVIS LABORATORIES FL, INC.,

Defendant.

Civil Action No. 20-534 (CCC)(MF)

SO STIPULATED:

Respectfully submitted,

Dated: January 27, 2020.

By: s/ Liza M. Walsh

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Pharmaceuticals LLC, Optimer
Pharmaceuticals LLC, MSD Investment
Holdings (Ireland), and MSD International
GmbH*

It is SO ORDERED.

DATED: Feb 3, 2020 By:



The Honorable Claire C. Cecchi
UNITED STATES DISTRICT COURT JUDGE